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**Datasheet for the decision
of 4 June 2020**

Case Number: T 0846/17 - 3.3.06

Application Number: 06110656.3

Publication Number: 1829954

IPC: C11D17/00, C11D17/04, C11D7/54

Language of the proceedings: EN

Title of invention:
Unit dose detergent for cleaning a coffee machine

Patent Proprietor:
Diversey, Inc.

Opponent:
Henkel AG & Co. KGaA

Headword:
Unit dose detergent/ DIVERSEY

Relevant legal provisions:
EPC R. 84(1)

Keyword:
Lapse of patent in all designated states - termination of
appeal proceedings

Decisions cited:

T 0329/88, T 0165/95, T 0749/01, T 0436/02, T 0289/06

Catchword:



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Case Number: T 0846/17 - 3.3.06

D E C I S I O N
of Technical Board of Appeal 3.3.06
of 4 June 2020

Appellant: Henkel AG & Co. KGaA
(Opponent) Henkelstrasse 67
40589 Düsseldorf (DE)

Representative: Henkel AG & Co. KGaA
CLI Patents
Z01
40191 Düsseldorf (DE)

Respondent: Diversey, Inc.
(Patent Proprietor) 8310 16th Street, M/S 509
P.O. Box 902
Sturtevant, WI 53177-0902 (US)

Representative: De Vries & Metman
Overschiestraat 180
1062 XK Amsterdam (NL)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 3 February 2017
rejecting the opposition filed against European
patent No. 1829954 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman J.-M. Schwaller
Members: P. Ammendola
R. Cramer

Summary of Facts and Submissions

- I. The present appeal lies from the decision of the opposition division rejecting the opposition against European patent no. 1 829 954.
- II. By communication of the Board of 4 March 2020, the parties' attention was drawn to the fact that the patent had lapsed with effect for all designated Contracting States. Pursuant to Rules 84(1) and 100(1) EPC, the appellant (opponent) was invited to inform the board, within two months from notification of the communication, whether it requested a continuation of the appeal proceedings. Further it was informed that if no request for continuation of proceedings was received in due time, the appeal proceedings would be discontinued.
- III. No reply from the appellant was received within the set time period.

Reasons for the Decision

1. Rule 84(1) EPC provides that if "the European patent has been surrendered in all the designated Contracting States or has lapsed in all those States, the opposition proceedings may be continued at the request of the opponent filed within two months of a communication from the European Patent Office informing him of the surrender or lapse". According to Rule 100(1) EPC, Rule 84(1) EPC also applies in opposition-appeal proceedings.
2. If no request for continuation of the proceedings is filed within the set time period the appeal proceedings

are to be terminated (see decisions T 329/88 of 22 June 1993; T 165/95 of 7 July 1997; T 749/01 of 23 August 2002; T 436/02 of 25 June 2004; T 289/06 of 17 December 2007).

3. In the present case, the notification of the lapse within the meaning of Rule 84(1) EPC was sent to the appellant on 4 March 2020. Thus, the period of two months for requesting continuation of the appeal proceedings ended on 14 May 2020 (Rule 126(2) EPC). No request for continuation of the appeal proceedings was received from the appellant within the set time period. Hence, the appeal proceedings are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



A. Pinna

J.-M. Schwaller

Decision electronically authenticated